

Executive Department
Austin, Texas
May 18, 1937.

To the Forty-fifth Legislature of the State of Texas:

I have today vetoed and disapproved House Bill No. 1034 for the following reasons:

1.

Briefly stated, this Bill authorizes the State Parks Board to acquire for use as a public park Padre Island off the coast of Texas at a consideration not to exceed \$500,000 including improvements. The Bill authorizes the State Highway Commission to construct, maintain and operate bridges and causeways; and authorizes the State Parks Board to charge tolls to be fixed by the Highway Commission and the Board, out of which tolls the

cost of the lands and improvements shall be paid. It authorizes the borrowing of money from the United States Government.

The Bill authorizes the purchase of Padre Island "without acquiring mineral rights to said land and subject to existing grazing lease contracts which are to expire within three (3) years from the date said purchase is completed."

I doubt the wisdom of the State acquiring land for park purposes without also acquiring mineral rights. The reservation of mineral rights in private owners would subject any parks or improvements created or built to explorations for oil at any time. It is a matter of common knowledge that all of the coastal territory is potential oil land; and certainly no state park ought to be subjected to explorations for oil and possibly the bringing in of a tremendous oil field which would destroy its value for park purposes without a cent of benefit to the State. As I understand it, the Federal Government will not acquire property for park purposes where there is a reservation of mineral rights. The same policy would seem to be equally desirable from the standpoint of the State.

2.

It is recited that the tract purchased on Padre Island contains approximately 90,000 acres of land. In other words, the State would not acquire the entire island. The total consideration authorized to be paid for this tract by the Parks Board, including costs of improvement, is \$500,000. It is a matter of common knowledge that when a stipulated maximum sum of money is authorized for the purchase of land, the agency charged with acquiring the property or expending the money rarely fails to use the entire amount. I dare say the contemplated expenditure would be no exception to the rule and the total amount of \$500,000 would probably be expended. From reliable information furnished me I doubt whether the land, including mineral rights, is worth more than the sum authorized to be expended.

While no direct taxes are levied in the Bill for this appropriation, yet authority is granted to set up toll bridges and causeways, which would certainly be an indirect tax on the people; and we should just as jealously safeguard the interests of the people in expenditures of money from one source as another.

3.

The authority to purchase this land from private owners implies complete title to the entire area of Padre Island; and that the State has no interest whatever therein. The island has never been surveyed, and consequently no field notes have been returned to the General Land Office. I find, however, that the title of private claimants to the land is based upon an old Spanish grant to Nicholas Balli and Juan Jose Balli, but only to 11½ leagues, and no more.

In response to an inquiry, J. H. Walker, former Land Commissioner, says that title to all these lands are asserted under this old grant; and that he never heard of any other grant.

In 1852 the Legislature of Texas confirmed title to "Nicholas Balli and Juan Jose Balli 11½ leagues, called Padre Island (Gam. 3, p. 947)." As a

matter of fact, I am certain that Padre Island actually contains over 30 leagues of land.

The confirmation of title to the Ballis by the Legislature in 1852 is based upon the report of William H. Bourland, reading, in part, as follows:

"Nicholas Guisanti and Jose Maria Tobar apply for a 11½ leagues of pasture land called 'Padre Island' originally granted by the Spanish Government to one Nicolas Balli and subsequently confirmed to him and his nephew Juan Jose Balli by the Mexican authorities. Witnesses prove the occupation of the said tract of land by said original grantee and his nephew for the last 50 years; and that they kept thereon the requisite number of stock to entitle them to the grant of 11½ leagues, never having any adverse claimants, etc. They having obtained a title from the proper authorities and resided upon the lands peaceably for a number of years; we recommend for confirmation 11½ leagues only to the heirs or assigns of original grantee, for we feel confident that the island called 'Padre's Island' contains or embraces over 30 leagues of land. It is therefore to be understood that we recommend only 11½ leagues of said island.—For testimony in this case see File No. 37 Cameron County."

I direct your particular attention to the fact that this report recommended "only 11½ leagues of said island." The grant itself, if in existence, is in the archives of the General Land Office and has never been surveyed. I think it is bad public policy to sign a Bill recognizing title in private parties to what is actually over 30 leagues of land when in truth the claim to title could only be based on 11½ leagues of land. As pointed out above, this land is potentially valuable oil land, and we should be extremely wary in recognizing title in others to lands which probably belong to the school children of Texas. The subject matter of this claim seemingly calls for an investigation by the General Land Office and by the Attorney General to determine the State's rights in the whole island; and certainly to that part of it not covered by the grant in 1852.

4.

While no duty is imposed on the State Parks Board to acquire this land, if the Bill is signed the Board will be subjected to constant pressure to carry it out. It would only be a matter of time until the land would be acquired; and in acquiring it, the Parks Board would ultimately have to come to the valuation placed on it by the private owners irrespective of whether the surface rights are actually worth the sum demanded. Conceivably, the State might operate it as a park and, through its concessions for a period of years, make substantial payments. Business might fall off later on, and under foreclosure the State would lose all of its rights, including any developments added and any moneys expended. I think the Bill is entirely too loosely drawn to safeguard the rights of the State even if we made this venture.

In addition, this Bill is but the opening wedge for the purchase of the remaining land on the island.

5.

While there is no absolute obligation imposed upon the Highway Commission to build bridges and causeways, it will be subjected to constant

pressure to do so. State Highway Engineer Gibb Gilchrist states that it would be quite expensive to build these causeways; that such causeways would be subjected to constant danger of destruction after each coastal storm. Most of the island, I understand, is a sandbar over which cars can be driven, but the Highway Commission would have the duty of maintaining this sandbar and keeping it free and clear of rubbish and driftwood after each storm.

Already the cost of maintaining our highways in the State runs between nine and ten million dollars each year. I don't think the State should assume this additional burden in view of the fact that only 2¢ of our present gasoline tax now goes into both the construction and maintenance of our highways.

For the reasons stated, the Bill is respectfully disapproved and vetoed, and returned to the House of Representatives in which it originated.

Respectfully submitted

JAMES V. ALLRED

Governor of Texas